



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/621,878

07/17/2003

Garry Tsaar

3093

29745

7590

11/14/2006

JOE NIEH

18760 E. AMAR ROAD #204

WALNUT, CA 91789

EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/621,878	Applicant(s) <sup>HT</sup> TSAUR, GARRY	
	Examiner Shian T. Luong	Art Unit 3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20,21,23 and 25-37 is/are pending in the application.
- 4a) Of the above claim(s) 25-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20,21 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

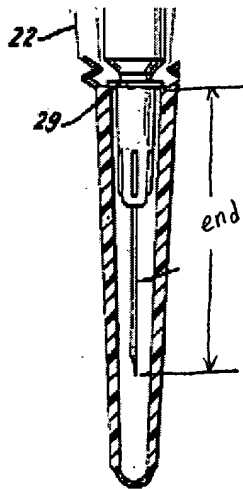
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Faulseit. (US 3,342,319). Faulseit discloses a retractable packaging comprising an elongated hollow tube 19,19'19'',19a19c that can be compressed and elongated axially. An elongated member disposed within the elongated hollow tube housing. The elongated tube housing enclosed the elongated member and when the elongated hollow tube housing is retracted by compressing the elongated hollow tube housing axially, one end of the elongated member is exposed. The elongated hollow tube housing has a sealed end and an open end. The elongated hollow tube housing comprises a flexible bellow section 22,22',22'',22a, 22c that can be compressed and elongated axially between two ends of the elongated hollow tube housing. The elongated member has at least one applicator at an end while both ends have applicators. One end of the elongated member is affixed to the sealed end of the elongated tube housing as shown in Figure 26.

Applicant argued that the syringe is not affixed to the container. However, the claim requires an end of the elongated member affixed to a sealed end of the hollow member. The focus is how applicant interprets the ends of the sealed hollow end and the elongated member. As shown in Figure 26 and reproduced below, the end of the elongated member is the portion from the reference element 29 and below. Similarly, the sealed end of the hollow member is the

hollow portion from the element 29 and extending below. Hence, the claim still reads on the reference as stated previously.



3. Claims 20-21 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanghoj et al. (US 7,094,220). Tanghoj discloses a retractable packaging in Figure 5 comprising an elongated hollow tube that can be compressed and elongated axially. An elongated member disposed within the elongated hollow tube housing. The elongated tube housing enclosed the elongated member and when the elongated hollow tube housing is retracted by compressing the elongated hollow tube housing axially, one end of the elongated member is exposed. The elongated hollow tube housing has a sealed end with sealed member as shown in Figure 2,3 4 and an open end. The elongated hollow tube housing comprises a flexible bellow section in Figures 5a-5g that can be compressed and elongated axially between two ends of the elongated

hollow tube housing. The elongated member has at least one applicator at an end. One end of the elongated member is affixed to the sealed end member as shown in Figures 1d, 2d and 4e.

### ***Conclusion***

4. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

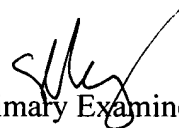
For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST. The examiner's supervisor Mickey Yu can be reached at (571) 272-4562 for urgent matters.

Application/Control Number: 10/621,878  
Art Unit: 3728

Page 5

STL  
November 8, 2006



Primary Examiner  
Shian Luong  
Art Unit 3728